

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA
7

8 THOMAS MCKINNON and GERI
9 MCKINNON,

10 Plaintiffs,

11 v.

12 ONEWEST BANK, FSB, et al.,

13 Defendants.
14

2:12-CV-329 JCM (VCF)

15 ORDER

16 Presently before the court is the matter of *McKinnon et al. v. NDEX West, LLC* (2:12-cv-329-
17 JCM-VCF). On June 16, 2014, the court granted defendants' motion to expunge the *lis pendens* upon
18 the property at the center of this action. The court found that plaintiffs failed to establish a "fair
19 chance of success on the merits" and ordered that the *lis pendens* be expunged pursuant to Nev. Rev.
20 Stat. 14.015(3).

21 On June 30, 2014, defendants filed a declaration seeking clarification from the court as to
22 the effect of its order. (Doc. # 74). Defendants observe that Nev. Rev. Stat. 14.015(5) provides,

23 If the court finds that the party who recorded the notice of pendency
24 of the action has failed to establish any of the matters *required by*
25 *subsection 2*, the court shall order the cancellation of the notice of
26 pendency and shall order the party who recorded the notice to record
with the recorder of the county a copy of the order of cancellation.
The order must state that the cancellation has the same effect as an
expungement of the original notice.

27 (emphasis added).
28

1 Defendants request an additional order from the court stating that “the cancellation has the
2 same effect as an expungement of the original notice.” Defendants’ assertion that such a statement
3 is necessary to expunge the *lis pendens* is misplaced, as the court did not find that plaintiffs failed
4 to meet the requirements set forth in Nev. Rev. Stat. 14.015(2), but instead that plaintiffs lacked a
5 “fair chance of success on the merits” as required by Nev. Rev. Stat. 14.015(3). Therefore, the
6 specific language required for cancellation pursuant to Nev. Rev. Stat. 14.015(5) was not necessary
7 to give effect to the court’s order.

8 Nevertheless, the court finds it appropriate to reiterate that expunction of the *lis pendens*
9 upon the property in this matter is warranted, as plaintiffs have failed to fulfill the requirements set
10 forth in Nev. Rev. Stat. 14.015(3).

11 Accordingly,

12 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the notice of pendency of
13 action filed and recorded by or on behalf of plaintiffs upon the real property located at 6208
14 Sweetbriar Court, Las Vegas, Nevada, 89146 (APN 163-02-814-017) with the Clark County
15 Recorder’s Office as instrument number 201202290003061 is hereby cancelled and expunged.

16 IT IS FURTHER ORDERED that plaintiffs shall record a copy of this order with the Clark
17 County Recorder’s Office within seven (7) days of its issuance.

18 DATED July 10, 2014.

19
20 
21 **UNITED STATES DISTRICT JUDGE**